S. B. C. W. P. NO.640/2003
(M/s. Hindustan Zinc Ltd. Vs. The State of Rajasthan & Ors.)

DATE OF ORDER : 17.08.2004

HON'BLE SHRI N.P.GUPTA,J.

Mr.K.N.Joshi for the petitioner.
Mr.L.R.Upadhyay Dy.G.A. for the respondent.

This petition has been filed seeking to challenge the orders, Annexures-2 & 3, dt. 3.8.02 & 21.12.02. By these two orders, certain demands have been raised by the respondents, regarding conversion charges, and notice has been given to make payment of the amounts.

The contention of the petitioner is that the petitioner was granted mining lease over an extensive area for a period upto 2010, and the land, for which the conversion charges are being demanded, forms part of that lease area, and by virtue of being a mining lessee, in accordance with the rights and liberties, conferred on the petitioner vide relevant extract of the lease agreement (Annexure-4), the construction of the building, schools, and residential accommodations, etc., has been raised, and therefore, there is no question of any conversion of agricultural land into Abadi land, as when it is granted for mining purposes, it ceases to be revenue land, it becomes a mining land, and therefore, there is no question about any demand, being raised from the petitioner, rather, the raising of the demand is wholly without jurisdiction.

Suffice it to say that as appears from Annexure-4, the document finding place on record at page 68, that the land was allotted to the petitioner on 6.12.82, for the purpose of constructing a staff colony, and that allotment was subject to the condition of the petitioner depositing certain price thereof. This document is a communication by the Sr. Personnel Officer of the petitioner, and is dated 6.7.93. In this communication, it is further mentioned that the petitioner has used about 37 bighas of land for residential colony, and constructions have been illegally raised on 10 bighas of land by the employees. It is also mentioned that on 30.3.93, the site was inspected, and measurements were taken. Then vide order dt. 31.1.86, it appears that some allotments were canceled, as the petitioner did not need the land, but then, it was represented that if consequent upon the cancellation of allotment, the constructions are demolished, the petitioner would suffer irreparable loss, and would result into national waste, and that the petitioner can

ill afford the demolition of the construction. In that background, a prayer was made that exercising powers under Section 92 of the Land Revenue Act, the land be set apart, and be allotted to the petitioner.

I also find from Annexure-8, dt. 21.7.96 that some proceedings were also initiated under Section 91 of the Rajasthan Land Revenue Act, which were contested by the petitioner. During course of argument, learned counsel for the petitioner informs that those proceedings were dropped. May be that in view of the land having been allotted to the petitioner on 6.12.82, those proceedings may have been dropped.

However, the fact does remain that in the entire writ petition, these facts about proceedings having been initiated under Section 91, or they having been dropped, or about the land having been allotted to the petitioner on 6.12.82, or that allotment having been canceled, or about a request having again been made for allotment of the land by setting it apart under Section 92 of the Land Revenue Act, have not at all even been disclosed, which clearly amounts to suppression of material fact on the part of the petitioner.

That apart, in view of the fact, that when the petitioner himself requested for allotment of the land, by setting it apart under Section 92 of the Land Revenue Act, and when vide Annexure-2, the government has allotted the land to the petitioner, simply because, the petitioner is to pay certain amounts, legally leviable from him, it is not open to the petitioner to challenge the allotment, as the petitioner is very much bound by the request, made by the petitioner vide the aforesaid document available on record at page 68. I also find document at page 72 of the paper book, being yet another communication of the petitioner, addressed to the Tehsildar, in response to the Collector's communication dt. 11.7.96, giving out that the petitioner is prepared to pay whatever amounts are leviable on account of the petitioner having raised constructions of the community hall, or residential colony, or school, etc., and the Tehsildar was requested to inform at the earliest, the precise amount payable, likewise, in the communication (Annexure-6) at page 73, addressed to the Collector on 5.5.98.

On the face of these documents, I do not find any sufficient ground to interfere in favour of the petitioner even on the merits.

The writ petition is, therefore, dismissed summarily.

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